

STATEWIDE COST ESTIMATE

California Department of Education Standards-Based Accountability Memoranda
Dated June 30, 1997 and April 15, 1996

Standards-Based Accountability (98-TC-10)

San Diego Unified School District, Claimant

Background and Summary of the Mandate

The California Department of Education (CDE) memoranda dated June 30, 1997, and April 15, 1998, require the State Board of Education and the Superintendent of Public Instruction to design, implement, and adopt statewide academically rigorous content standards in reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. On August 29, 2002, the Commission on State Mandates (Commission) adopted the Statement of Decision determining that the above-named CDE memoranda constitute new programs or higher levels of service for school districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514, by imposing reporting requirements on designated school districts to address the above CDE requirements.

The claimant, San Diego Unified School District, filed the test claim on December 10, 1998. The Commission adopted the Statement of Decision on August 29, 2002, and the parameters and guidelines on May 29, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by December 9, 2003. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the following activities:

For those districts scheduled for a 1997-1998 Coordinated Compliance Review, or otherwise specifically required by the state to engage in these reporting activities:

- Complete and submit to the state by November 1, 1997, the *District Assessment and Accountability System Description*, to explain the measures and methods used by the school district in assessing individual student achievement levels in reading/language arts and mathematics for the 1996-97 year.
- Complete and submit to the state by November 1, 1997, one form for each school in the district, the *1996-97 Student Achievement Summary School Report*, to report the percentage of all students in each school that meet or exceed the district-established grade-level standards in reading/language arts and mathematics, and separately for students served under each of the following specially-funded programs: Title I - Targeted Assistance, Migrant Education, Limited English Proficient, Special Education, and/or Gifted and Talented.

For those districts scheduled for a 1998-1999 Coordinated Compliance Review:

- Complete and submit to the state by November 1, 1998, *District Assessment and Accountability System Description*, to explain the measures and methods used by the school district in assessing individual student achievement levels in reading/language arts and mathematics for the 1997-98 year. One of the measures used shall be the STAR program.¹
- Complete and submit to the state by November 1, 1998, one form for each school in the district, *1997-98 Student Achievement Summary School Report*, to report the percentage of all students in each school that meet or exceed the district-established grade-level standards in reading/language arts and mathematics, and separately for students served under each of the following specially-funded programs: Title I - Targeted Assistance, Migrant Education, Limited English Proficient, Special Education, and/or Gifted and Talented.

Exception to reimbursement for some activities by Title I funded schools within districts otherwise eligible for reimbursement above:

For Title I funded schools completing the *Student Achievement Summary School Report* for Coordinated Compliance Review years 1997-1998 and/or 1998-1999, an exception to reimbursement exists under Government Code section 17556, subdivision (c). For Title I schools, reimbursement is allowed for disaggregating the results for Gifted and Talented Education students, and for reporting on assessments for more than one grade in each of the grade spans 3-5, 6-9, and 10-12, but not for any other activities.

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of this program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology, will be reported to the Legislature.

Assumptions

Staff made the following assumptions:

- The statewide cost estimate is based on 43 claims filed by 41 school districts.² The claiming data is unaudited and may be inaccurate. Summerville Elementary School District (enrollment of 474) filed reimbursement claims for \$12,199 in 1997-1998, and \$12,692 in 1998-1999. However, a school district of comparative size filed a reimbursement claim of approximately \$1,400.³ In fact, a school district with enrollment

¹ The STAR parameters and guidelines provide reimbursement for activities related to reporting STAR program results. STAR activities shall not be reimbursed under the *Standards-Based Accountability* program.

² Claims data reported by the SCO as of May 19, 2004.

³ Soulsbyville School district, with enrollment of 679, filed a reimbursement claim for \$1,447 for the 1998-1999 fiscal year.

20 times that of Summerville filed a smaller claim.⁴

- The actual amount claimed could significantly increase if late or amended claims are filed, and could exceed the statewide cost estimate. Late claims may be filed for this program until December 2004. According to the California Department of Education, between 250-300 school districts were required to participate in this program for fiscal years 1997-1998 and 1998-1999. To date, only 41 of the 500-600 school districts have filed reimbursement claims.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

- Staff reviewed the summary claims data provided by the SCO for fiscal years 1997-1998 and 1998-1999. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The proposed statewide cost estimate was developed based on the 43 unaudited, actual reimbursement claims.
- For the reasons stated above, staff only included \$1,500 per fiscal year for Summerville Elementary School District.
- There is a \$1,000 minimum threshold for filing reimbursement claims. Beardsley Elementary School District filed a claim for \$956. Therefore, staff did not include this claims data in the statewide cost estimate.

The proposed statewide cost estimate includes two fiscal years for a total of \$578,224. This averages to \$289,112 annually in costs for the state.

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed with SCO	Claim Totals
1997-1998	20	\$308,760
1998-1999	23	\$269,464
Total	43	\$578,224

⁴ Palos Verdes Peninsula Unified School District, with enrollment of 9,543, filed a reimbursement claim for \$10,417 for the 1997-1998 fiscal year.

STATEWIDE COST ESTIMATE

Statutes 1997, Chapter 855

Statutes 1998, Chapter 846

Attendance Accounting (98-TC-26)

Campbell Union High School District, Grant Joint Union High School District,
and San Luis Obispo County Office of Education, Claimants

Background and Summary of the Mandate

The test claim arose from enactments of or amendments to the Education Code that added new student attendance reporting requirements for school districts and county offices of education. On October 24, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Education Code sections 2550.3 and 42238.7 impose costs mandated by the state pursuant to Government Code section 17514, for the one-time activity for school districts and county offices of education to complete and return a "Worksheet for Determining the Adjusted 1998-99 Base Revenue Limit in Accordance with SB 727" to the Superintendent of Public Instruction.

The claimant, Campbell Union High School District, filed the test claim on June 29, 1999. Subsequent amendments added Grant Joint Union High School District and San Luis Obispo County Office of Education as co-claimants. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on July 31, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by February 3, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the actual one-time costs for fiscal year 1998-99 for the following activities:

A. School District Activities

Completion and return of the "Worksheet for Determining the Adjusted 1998-99 Base Revenue Limit in Accordance with SB 727" to the Superintendent of Public Instruction. (Ed. Code, § 42238.7.)

B. County Office of Education Activities

Completion and return of the "Worksheet for Determining the Adjusted 1998-99 Base Revenue Limit in Accordance with SB 727" to the Superintendent of Public Instruction. (Ed. Code, § 2550.3.)

Statewide Cost Estimate

Staff reviewed the claims data submitted by the claimants and compiled by the SCO. Staff made the following assumptions and used the following methodology to develop a statewide cost

Attendance Accounting SCE (98-TC-26)

estimate of the program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology will be reported to the Legislature.

Assumptions

Staff made the following assumptions:

- The statewide cost estimate is based on 25 claims filed by 22 school districts and 3 county offices of education. The claiming data is accurate, although unaudited.¹
- The actual amount claimed could increase if late or amended claims are filed, and could exceed the statewide cost estimate. To date, only 25 out of over 1,000 school districts and county offices of education have filed reimbursement claims. Late claims may be filed for this program until February 2005.
- It is possible that late claims will not be filed for this program. According to a school district representative, no additional claims may be filed because:
 1. The claimants probably no longer have the documentation to support reimbursement claims for fiscal year 1998-1999.
 2. The cost to perform the reimbursable activity for many claimants may not have met the required \$1,000 claim minimum.
 3. This is only a one-year program. School districts, particularly larger districts, may elect not to expend staff time to file for reimbursement for a one-year program.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

- Staff reviewed the summary claims data provided by the SCO. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The proposed statewide cost estimate is based on the 25 unaudited, actual reimbursement claims.

Following is a breakdown of estimated total cost:

Fiscal Year	Number of Claims Filed by School Districts	Amount of Claims Filed by School Districts	Number of Claims Filed by County Offices of Education	Amount of Claims Filed by County Offices of Education	Claim Totals
1998-1999	22	\$43,913	3	\$5,173	\$49,086

¹ Claims data reported by the SCO as of May 19, 2004.

ITEM 9
FINAL STAFF ANALYSIS
PROPOSED STATEWIDE COST ESTIMATE

Education Code Sections 47605, Subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614

Statutes 1998, Chapters 34 and 673

Charter Schools II (99-TC-03)

Los Angeles County Office of Education
and San Diego Unified School District, Claimants

EXECUTIVE SUMMARY

Summary of the Mandate

The Commission on State Mandates (Commission) has adopted two decisions related to the *Charter Schools* program. On July 21, 1994, the Commission adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters. On November 21, 2002, the Commission adopted its Statement of Decision on *Charter Schools II*, finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614, as added or amended by Statutes 1998, chapters 34 and 673, require new activities that replaces the previously approved mandate in *Charter Schools* for a review process for denied charter petitions.

The claimant filed the *Charter Schools II* test claim on June 29, 1999. The Commission adopted the Statement of Decision on November 21, 2002, and consolidated the new parameters and guidelines for the *Charter Schools II* program with the original test claim on December 2, 2003. The period of reimbursement section of the consolidated parameters and guidelines states that costs for *Charter Schools* already claimed for fiscal years 1998-1999 through 2002-2003 are not reimbursable. Eligible claimants were required to file initial reimbursement claims for *Charter Schools II* with the State Controller's Office (SCO) by June 1, 2004.

Staff reviewed seven actual claims filed by school districts and/or county offices of education for fiscal years 1999-2000 through 2002-2003. Staff assumes that there will not be a significant number of late claims filed because the cost to perform the reimbursable activities for *Charter Schools II* are minimal when compared to the costs already claimed for the original *Charter Schools* mandate, and are less than the \$1,000 minimum for filing an annual reimbursement claim.

The proposed statewide cost estimate includes six fiscal years for a total of **\$206,595**. This averages to \$34,433 annually in costs for the state. The following table details the breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Claim Totals
1999-2000	1	\$ 2,042
2000-2001	1	9,419
2001-2002	2	13,844
2002-2003	3	58,943
2003-2004 (est.)	N/A	60,299
2004-2005 (est.)	N/A	62,048
TOTAL	7	\$ 206,595

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$206,595 for costs incurred in complying with the *Charter Schools II* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

STAFF ANALYSIS

Summary of the Mandate

The Commission on State Mandates (Commission) has adopted two decisions related to the *Charter Schools* program. On July 21, 1994, the Commission adopted its Statement of Decision finding that Education Code sections 47605 and 47607, as added by Statutes 1992, chapter 781, require new activities related to initial charter school petitions and for monitoring and evaluating the performance of charter schools pertaining to the revision or renewal of approved charters. On November 21, 2002, the Commission adopted its Statement of Decision on *Charter Schools II*, finding that Education Code sections 47605, subdivisions (j)(1) and (k)(3), 47605.5, 47607, and 47614, as added or amended by Statutes 1998, chapters 34 and 673, require new activities that replaces the previously approved mandate in *Charter Schools* for a review process for denied charter petitions.

The claimant filed the *Charter Schools II* test claim on June 29, 1999. The Commission adopted the Statement of Decision on November 21, 2002, and consolidated the new parameters and guidelines for the *Charter Schools II* program with the original test claim on December 2, 2003. The period of reimbursement section of the consolidated parameters and guidelines states that costs for *Charter Schools* already claimed for fiscal years 1998-1999 through 2002-2003 are not reimbursable. Eligible claimants were required to file initial reimbursement claims for *Charter Schools II* with the State Controller's Office (SCO) by June 1, 2004.

Discussion

Reimbursable Activities

Charter Schools

Effective January 1, 1999, many activities from the original *Charter Schools* parameters and guidelines were amended by Statutes 1998, chapters 34 and 673, and are reflected in the *Charter Schools II* activities.

Charter Schools II

A. School Districts

1. Review charter school petitions for renewal that are submitted directly to the governing board of the school district that initially denied the charter.¹ Pursuant to Education Code section 47605, subdivision (k)(3), the petition must be submitted prior to expiration of the charter granted by the State Board of Education. (Ed. Code, § 47605, subd. (k)(3).)
2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

¹ Each renewal is for a period of five years.

B. County Offices of Education

1. Review charter school petitions submitted directly to the county board of education, pursuant to Education Code section 47605, subdivision (b):
 - a. When the governing board of a school district denies a charter school petition and the charter school petitioner submits the petition to the county board of education. (Ed. Code, § 47605, subd. (j)(1).)²
 - b. For charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. (Ed. Code, § 47605.5.)
2. Notify the charter public school of any violation of Education Code section 47607, subdivision (b), prior to revocation of a charter. Pursuant to Education Code section 47607, subdivision (c), the school shall be given a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils. (Ed. Code, § 47607, subd. (c).)

Statewide Cost Estimate

Staff reviewed seven actual claims filed by school districts and/or county offices of education for fiscal years 1999-2000 through 2002-2003.³ Staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program. If the Commission adopts this statewide cost estimate, the estimate, including staff's assumptions and methodology, will be reported to the Legislature.

Assumptions

Staff made the following assumptions:

- The claiming data is unaudited.
- The actual amount claimed will increase when late or amended claims are filed, and could exceed the statewide cost estimate. For this program, late claims may be filed until June 2005.
- Significant numbers of late claims will not be filed because the cost to perform the reimbursable activities for *Charter Schools II* are minimal when compared to the costs already claimed for the original *Charter Schools* mandate and are less than the \$1,000 minimum for filing an annual reimbursement claim.
- The statewide cost estimate of this program will increase if the number of charter schools increase, the number of charter school petitions filed in fiscal year 2004-2005 increases and/or the number of eligible claimants increases.

² As amended by Statutes 1998, chapter 673. As amended by Statutes 1998, chapter 673. This replaces the previously approved activity in the original *Charter Schools* parameters and guidelines related to "Petition Appeals." (Ed. Code, § 47605, subd. (j), as added by Stats. 1992, ch. 781; replaced by Stats. 1998, ch. 673.)

³ Claims data reported by the SCO as of July 9, 2004.

- The costs of this program will decrease if the number of charter schools declines and/or the number of eligible claimants declines.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1999-2003 Costs

The proposed statewide cost estimate for fiscal years 1999-2000 through 2002-2003 is based on seven unaudited, actual reimbursement claims.

2003-2005 Projected Costs

Staff projected totals for fiscal year 2003-2004 by multiplying the total on 2002-2003 reimbursement claims by the implicit price deflator for 2002-2003 (2.3%), as forecast by the Department of Finance. Staff projected totals for fiscal year 2004-2005 by multiplying the 2003-2004 projection by the implicit price deflator for 2003-2004 (2.9%).

The proposed statewide cost estimate includes six fiscal years for a total of **\$206,595**. This averages to \$34,433 annually in costs for the state.

Following is a breakdown of estimated total costs per fiscal year:

Table 1. Estimated Total Costs per Fiscal Year

Fiscal Year	Number of Claims Filed	Claim Totals
1999-2000	1	\$ 2,042
2000-2001	1	9,419
2001-2002	2	13,844
2002-2003	3	58,943
2003-2004 (est.)	N/A	60,299
2004-2005 (est.)	N/A	62,048
TOTAL	7	\$ 206,595

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$206,595 for costs incurred in complying with the *Charter Schools II* program.

ITEM 10

PROPOSED STATEWIDE COST ESTIMATE STAFF ANALYSIS

Statutes 1990, Chapter 423

Statutes 1995, Chapter 758

Education Code Section 67385

Sexual Assault Response Procedures (99-TC-12)

Los Angeles Community College District, Claimant

EXECUTIVE SUMMARY

The test claim legislation requires the governing board of each community college district to adopt and implement a written procedure or protocols at each of their campuses or facilities to ensure that students, faculty and staff who are victims of sexual assault receive treatment and information. The statute specifies the minimum content of the written procedure or protocols.

The claimant filed the test claim on June 21, 2000. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004.

At this time, no reimbursement claims have been filed for this program. Under the existing mandates process, the amount of a statewide cost estimate is reported to the Legislature and introduced in a local government claims bill. Once the local government claims bill appropriates funds for the initial reimbursement period, the program's annual statewide estimated costs are placed in the State Budget. Since there are no claims on which to base this statewide cost estimate, staff recommends that the Commission adopt a statewide cost estimate of \$0 for this program. Adopting an estimate of "0" will initiate the process for informing the Legislature that there are no costs for this program. However, if reimbursement claims are filed on this program by June 6, 2005, a deficiency will be reported to the Legislature by the SCO.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$0 for costs incurred in complying with the *Sexual Assault Response Procedures* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

STAFF ANALYSIS

Background and Summary of the Mandate

The test claim legislation requires the governing board of each community college district to adopt and implement a written procedure or protocols at each of their campuses or facilities to ensure that students, faculty and staff who are victims of sexual assault receive treatment and information. The statute specifies the minimum content of the written procedure or protocols.

The claimant, Los Angeles Community College District, filed the test claim on June 21, 2000. The Commission adopted the Statement of Decision on October 24, 2002, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the following activities:

A. Policies and Procedures (One-Time Activity per Campus or Facility)

The governing board of each community college district shall adopt and implement at each campus or facility written procedure or protocols to ensure to the fullest extent possible that students, faculty or staff who are victims of sexual assault committed on the grounds or facilities of each institution, or on off-campus grounds or facilities maintained by the institutions, or on grounds or facilities maintained by affiliated student organizations shall receive treatment and information. If appropriate on-campus treatment facilities are unavailable, the written procedure or protocols may provide for referrals to local community treatment centers. The written procedure or protocols shall contain at least the following information:

- (1) the college policy on sexual assault on campus;
- (2) personnel on campus to notify, and procedures for notification, with the victim's consent;
- (3) legal reporting requirements and procedures for fulfilling them;
- (4) services available to the victim and personnel to provide response services, such as transporting a victim to the hospital, referring victims to a counseling, and notifying the police, with the victim's concurrence;
- (5) a description of both on campus and off campus resources available to the victim;
- (6) procedures for ongoing case management, including keeping the victim informed of the status of student disciplinary proceedings in connection with the assault, the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties stemming from the sexual assault;
- (7) procedures guaranteeing confidentiality and for handling requests for information from the press, concerned students, and parents;
- (8) procedures for informing rape and other assault victims of the possibility of criminal prosecution, civil actions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance.

The claimant is only allowed to claim and be reimbursed for the increased cost of providing the information described in the reimbursable activity identified above. If other information is included in the written procedure or protocols, it is at the claimant's discretion and is not reimbursable. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

B. Update the written information contained in the procedure or protocols annually, if needed.

C. Training

Training to inform employees of the original and any subsequent updates to the written procedure or protocols (see B. above).

Statewide Cost Estimate

At this time, no reimbursement claims have been filed for this program. Under the existing mandates process, the amount of a statewide cost estimate is reported to the Legislature and introduced in a local government claims bill. Once the local government claims bill appropriates funds for the initial reimbursement period, the program's annual statewide estimated costs are placed in the State Budget. Since there are no claims on which to base this statewide cost estimate, staff recommends that the Commission adopt a statewide cost estimate of \$0 for this program. Adopting an estimate of "0" will initiate the process for informing the Legislature that there are no costs for this program. However, if reimbursement claims are filed on this program by June 6, 2005, a deficiency will be reported to the Legislature by the SCO.

Assumptions

Staff made the following assumptions:

- Since the reimbursable activities are limited to the development and implementation of policies and procedures, which does not include the activities to carry out those policies and procedures, it is anticipated that most claimants will not meet the \$1,000 per year minimum filing threshold. Therefore it is unlikely that any claims will be filed on this program.
- If claims were filed on this program, the actual amount claimed would exceed the statewide cost estimate because there would be no funds appropriated in the State Budget to fund this program.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of \$0 for costs incurred in complying with the *Sexual Assault Response Procedures* program.

ITEM 11

PROPOSED STATEWIDE COST ESTIMATE STAFF ANALYSIS

Education Code Sections 44830.1, 44830.2, 45125, 45125.01, and 45125.2

Statutes 1998, Chapters 594 and 840

Statutes 1999, Chapter 78

California Code of Regulations, Title 11, Sections 700-708

Criminal Background Checks II (00-TC-05)

Napa County Office of Education, Claimant

EXECUTIVE SUMMARY

The Commission on State Mandates (Commission) adopted the Statement of Decision for *Criminal Background Checks I* on March 25, 1999, the parameters and guidelines on October 28, 1999, and the statewide cost estimate on May 25, 2000.

In 1998 and 1999, the Legislature enacted legislation which added or amended Education Code sections relating to the following: criminal background checks of district employees, monitoring or separation of employees of construction contractors who work on school grounds, sending fingerprints to the Federal Bureau of Investigation (FBI), requesting from Department of Justice (DOJ) reports of subsequent arrest for employees, and storage and destruction of criminal record summaries. In December 2000, the claimant submitted a test claim alleging a reimbursable state mandate for school districts for these specific new activities and costs.

The Commission adopted the Statement of Decision for *Criminal Background Checks II* on February 27, 2003, and the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004.

The SCO provided unaudited claims totals to the Commission on July 9, 2004. Staff reviewed this data and actual reimbursement claims to develop the proposed statewide cost estimate. The proposed statewide cost estimate includes six fiscal years for a total of \$262,599. This averages to \$43,767 annually in costs for the state.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate for costs incurred in complying with the *Criminal Background Checks II* program. If the statewide cost estimate is adopted, staff will report the estimate to the Legislature.

STAFF ANALYSIS

Background and Summary of the Mandate

In 1997, the Legislature enacted the Michelle Montoya School Safety Act that requires school districts to obtain criminal background checks on specified types of school district employees. School districts must also obtain criminal background checks of employees of entities that contract with the districts. The act also prohibits districts from employing or retaining temporary, substitute or probationary employees who have been convicted of a serious or violent felony.

On March 25, 1999, the Commission adopted its Statement of Decision finding that the *Criminal Background Checks I* test claim imposes a reimbursable state-mandated program on school districts under article XIII B, section 6 of the California Constitution and Government Code section 17514. The parameters and guidelines were adopted on October 28, 1999. The statewide cost estimate was adopted on May 25, 2000.

In 1998 and 1999, the Legislature enacted legislation which added or amended Education Code sections relating to the following: criminal background checks of district employees, monitoring or separation of employees of construction contractors who work on school grounds, sending fingerprints to the Federal Bureau of Investigation (FBI), requesting from Department of Justice (DOJ) reports of subsequent arrest for employees, and storage and destruction of criminal record summaries. In December 2000, claimant, Napa County Office of Education, submitted a test claim alleging a reimbursable state mandate for school districts for these specific new activities and costs.

On February 27, 2003, the Commission adopted its Statement of Decision for the *Criminal Background Checks II* test claim, finding that Education Code sections 44830.1, 45125, 45125.01, and 45125.2 constitute new programs or higher levels of service for school districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514 for the following activities:

- communication with DOJ and related activities;
- storage of DOJ documents;
- destroying DOJ information;
- requesting the DOJ to forward copies of non-certificated employees' fingerprint cards to the FBI;
- maintaining a list of the current number of employees who have not completed the requirements of Education Code section 45125, with the noted pupil exception;
- requesting subsequent arrest service from the DOJ for certificated and non-certificated positions; and
- taking precautions in dealing with contractors.

The Commission adopted the parameters and guidelines on December 2, 2003. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by June 7, 2004. The Commission uses these initial claims to develop the statewide cost estimate.

Discussion

Reimbursable Activities

The Commission approved this test claim for the following new activities:

A. Communication with the Department of Justice

(Stats. 1998, ch. 840; Ed. Code, §§ 44830.1, subd. (i) & 45125, subd. (j).)

1. Complete DOJ "Contract for Subsequent Arrest Notification Service" to receive notification of subsequent arrests.
2. Notify the DOJ when the employment of the applicant is terminated, when the applicant's certificate is revoked, or when the applicant may no longer renew or reinstate the certificate.
3. Return the subsequent arrest notification to the DOJ and inform the DOJ that the District is no longer interested in the applicant for a person unknown to the District, or for a person no longer employed by the District, or no longer eligible to renew the certificate or license for which subsequent arrest notification service was established.
4. Notify the DOJ if the applicant is denied licensing or certification.

B. Storage of Department of Justice Documents

(Stats. 1998, ch. 840, and Stats. 1999, ch. 78; Ed. Code, §§ 44830.1, subd. (n)(2), 44830.2, subd. (f)(2), 45125.01 subd. (f)(2), & 45125, subd. (k)(2).)

1. Store criminal history records and reports of subsequent arrests received from the DOJ on volunteers and current and prospective employees in a locked file separate from other files and accessible to only the custodian of records. This activity includes the costs associated with obtaining separate storage for these records. The storage method and how long the records are kept must be in accordance with how school district records of a similar nature are stored in the normal course of business.

C. Destruction of Department of Justice Information

(Stats. 1998, ch. 840, Ed. Code, §§ 44830.1, subd. (n)(3), & 45125, subd. (k)(3).)

1. Destroy information received from the DOJ upon a hiring determination in accordance with California Code of Regulations, title 11, section 708, subdivision (a), which requires that destruction of criminal offender record information be carried out so that the identity of the subject can no longer be reasonably ascertained; or
2. Provide a witness from the school district to observe the destruction of the information when records are destroyed outside the district.

D. Fingerprint Card Requests to the Federal Bureau of Investigation

(Stats. 1998, ch. 840; Ed. Code, § 45125, subd. (b)(3).)

1. Indicate (check appropriate box) to request the DOJ to forward copies of non-certificated employees' fingerprint cards to the Federal Bureau of Investigation (FBI).

E. Maintaining a List of the Number of Current Employees

(Stats. 1998, ch. 840; Ed. Code, § 45125, subd. (d).)

1. Maintain a list indicating the current number of employees who have not completed the requirements of Education Code section 45125 (except for pupils employed in a temporary or part-time position at the school they attend).

F. Subsequent Arrest Service Requests

(Stats. 1998, ch. 840; Ed. Code, §§ 44830.1, subd. (i), & 45125, subd. (j).)

1. Request subsequent arrest service from the DOJ for certificated and non-certificated positions, as necessary.

G. Precautions Dealing with Construction Contractors

(Stats. 1998, ch. 840; Ed. Code, § 45125.2, subd. (a).)

The activities listed in section IV. G. are not reimbursable to “an entity providing construction, reconstruction, rehabilitation, or repair services to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.” (Ed. Code, § 45125.2, subd. (d).)

1. When contracting for construction, reconstruction, rehabilitation, or facility repair, determine whether the contractor will have “limited contact”¹ with pupils.
2. If the contractor’s employees will have more than limited contact:
 - a. install a physical barrier at construction worksites at school facilities; or
 - b. develop contract language that requires the contractor to install a physical barrier at construction worksites at school facilities or to continually supervise and monitor contractor employees (any individual serving as a construction employee monitor or providing employee surveillance must not have been convicted of a violent or serious felony).

Statewide Cost Estimate

Staff reviewed 23 actual claims filed by 6 school districts for fiscal years 1999-2000 through 2002-2003.² Staff made the following assumptions and used the following methodology to develop a statewide cost estimate of this program. If the Commission adopts this statewide cost estimate, the estimate, including staff’s assumptions and methodology, will be reported to the Legislature.

Assumptions

Staff made the following assumptions:

- The claims data is unaudited.

¹ Districts must consider the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. See Education Code section 45125.1, subdivision (c).

² Claims data reported by the SCO as of July 9, 2004.

- The actual amount claimed will increase when late or amended claims are filed, and could exceed the statewide cost estimate. Late claims may be filed for this program until June 7, 2005.
- Significant numbers of late claims will not be filed because the cost to perform the reimbursable activities for *Criminal Background Checks II* are minimal when compared to the costs already claimed for the original *Criminal Background Checks I* mandate and are less than the \$1,000 minimum for filing an annual reimbursement claim.
- Any reimbursement claim for this program may be reduced by the SCO if it is audited and deemed to be excessive or unreasonable. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

1999-2000 through 2002-2003 Projected Costs

- Staff reviewed the summary claims data provided by the SCO for fiscal years 1999-2000 through 2002-2003. Staff then reviewed the reimbursement claims to study claiming data and possible trends. No trends were identified for this program.
- The proposed statewide cost estimate was developed based on the 23 unaudited, actual reimbursement claims.

2003-2004 through 2004-2005 Projected Costs

- Staff projected totals for FY 2003-2004 by multiplying the FY 2002-2003 claim total filed by claimants with the SCO by the implicit price deflator for 2002-2003 (2.3%), as forecast by the Department of Finance. Staff projected totals for FY 2004-2005 by multiplying the FY 2002-2003 claims total by the implicit price deflator for 2003-2004 (2.9%).

The proposed statewide cost estimate includes six fiscal years for a total of \$262,599. This averages to \$43,767 annually in costs for the state. Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	Number of Claims Filed	Amount of Claims Filed
1999-2000	6	\$37,114
2000-2001	5	\$39,338
2001-2002	6	\$44,589
2002-2003	6	\$46,382
2003-2004 (estimated)	N/A	\$47,449
2004-2005 (estimated)	N/A	\$47,727
Total	23	\$262,599

Staff Recommendation

Staff recommends that the Commission adopt the proposed statewide cost estimate of **\$262,599** for costs incurred in complying with the *Criminal Background Checks II* program.

APPENDIX B

Letter from Department of Finance
To State Controller's Office,
Denying Request for Appropriation
Transfer and Deficiency Appropriation



DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR

STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

RECEIVED

MAY 20 2004

**COMMISSION ON
STATE MANDATES**

May 19, 2004

Honorable Wesley Chesbro, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Darrell Steinberg, Chair
Assembly Budget Committee

Honorable Dede Alpert, Chair
Senate Appropriations Committee

Honorable Judy Chu, Chair
Assembly Appropriations Committee

**Transmittal of Department of Finance Position on Deficiency Authorization Requested
by State Controller's Office**

Pursuant to the provisions of Section 27.00 of the Budget Act of 2003, we are submitting the following information. We have reviewed the attached request submitted by the State Controller's Office (SCO) for the purpose of augmenting appropriations scheduled in previous Budget Acts and previously-enacted local government mandate claims bills, which the SCO indicates are not sufficient to pay claims received.

The SCO estimates a total deficiency of approximately \$1.7 billion (\$682.2 million for school districts, \$49.1 million for community colleges, and \$1.0 billion for local agencies). In addition, the SCO letter indicates that there is \$34,313 in unexpended appropriation balances (\$23,313 for school districts and \$11,000 for local agencies) related to various mandated programs from previous budget acts and local claims bills. The SCO requests that the unencumbered balances of these programs be transferred to those that are deficient to offset the overall deficiency, resulting in a net deficiency of \$1.73 billion. Government Code Section 17613 provides the authority for the shifting of funding among these appropriations.

In light of the current fiscal situation, and consistent with the Administration's proposal to defer, suspend, or repeal all mandates in 2004-05, we do not concur with the deficiency request and will send a letter notifying the SCO of our denial of that portion of their request. Deficiency funding for these programs, including any accrued interest, will be considered at a later time. Similarly, with regard to the request to transfer unencumbered appropriation balances to deficient mandate appropriations, we do not concur and will so notify the SCO.

Please call Keith Gmeinder, Principal Program Budget Analyst, at 445-8913 if you have any questions.

DONNA ARDUIN

Director

By Original Signed by:

Michael C. Genest

MICHAEL C. GENEST

Chief Deputy Director

Attachment

cc: Honorable Richard Ackerman, Vice Chair, Senate Budget and Fiscal Review Committee
Honorable Rick Keene, Vice Chair, Assembly Budget Committee
Honorable Joseph Dunn, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable John Dutra, Chair, Assembly Budget Subcommittee No. 4
Ms. Elizabeth Hill, Legislative Analyst (3)
Mr. Danny Alvarez, Staff Director, Senate Budget and Fiscal Review Committee
Ms. Anne Maitland, Staff Director, Senate Appropriations Committee
Mr. Jeff Bell, Fiscal Director, Senate Republican Fiscal Office
Ms. Diane Cummins, Senate President pro Tempore's Office
Mr. Christopher W. Woods, Chief Consultant, Assembly Budget Committee
Mr. Geoff Long, Chief Consultant, Assembly Appropriations Committee
Mr. Peter Schaafsma, Staff Director, Assembly Republican Fiscal Committee
Ms. Julie Sauls, Chief of Staff, Assembly Republican Leader's Office
Mr. Craig Cornett, Assembly Speaker's Office (2)
Ms. Paula Higashi, Executive Officer, Commission on State Mandates
Mr. John Korach, Chief, Division of Accounting and Reporting, State Controller's Office
Mr. Vincent Brown, Chief Operating Officer, State Controller's Office



STEVE WESTLY
California State Controller

May 3, 2004

Mr. Stephen W. Kessler
Deputy Director, Operations
Department of Finance
State Capital, Room 1145
Sacramento, CA 95814

RE: STATE MANDATED COST PROGRAM APPROPRIATION TRANSFER AND
DEFICIENCY REQUESTS

Dear Mr. Kessler:

In accordance with Government Code Section 17567, you are notified that amounts appropriated for reimbursement pursuant to section 17561 were insufficient to fully pay the claims filed with this office in regard to the state mandated cost program. The following is a proposal to transfer funds from various appropriations with unencumbered funds to those that are deficient and to request additional funds in the amount of \$1,731,492,609 (\$1,000,204,578 for local agencies, \$682,152,348 for school districts and \$49,135,683 for community colleges) because of an overall appropriation deficiency (see attached schedule "Appropriation Transfer and Deficiency Requests"). Both the transfer and deficiency requests are necessary for this office to fully reimburse all claims filed by claimants.

The mandate program funding deficiencies are the result of deferred funding for new claims received during the 2002-03, 2003-04 fiscal years and prior years insufficient appropriations. These new claims include 2001-02 late claims, 2002-03 actual cost claims and 2003-04 estimated claims that are in excess of available appropriation balances.

Additionally, payment of accrued interest is required pursuant to Government Code section 17561.5 when payment is made more than 60 days after the claim filing deadline. Deferred funding for mandate programs including requests for additional funding for prior year deficient appropriations resulted in estimated accrued interest of \$88,961,679 (\$36,899,123 for local agencies, \$50,057,021 for school districts, and \$2,005,535 for community colleges), for the period July 1, 1996, through April 30, 2004. We recommend that an estimated amount of accrued interest be added to this deficiency

request covering the period from May 1, 2004, to the effective date of the funding legislation.

The following shows a summary of deficient appropriations by funding source:

Budget Item or Other	Appropriation Balances	Appropriation Deficiencies	Net Request	See Page of Attached Spreadsheet for Detail
Local Agency Mandated Cost Programs				
2003-04 Budget Act (Ch. 157/03)	\$ 6,000	\$ (218,879,034)	\$ (218,873,034)	1
2002-03 Budget Act (Ch. 379/02)	3,000	(279,722,788)	(279,719,788)	2
2001-02 Budget Act (Ch. 106/01)	2,000	(117,332,784)	(117,330,784)	3
2000-01 and Prior Year Budget Acts	0	(131,564,285)	(131,564,285)	4
2001 Local Government Claims Bill (Ch. 723/01)	0	(215,367,502)	(215,367,502)	4
2000 Local Government Claims Bill (Ch. 177/00)	0	(161,850)	(161,850)	4
1999 Local Government Claims Bill (Ch. 574/99)	0	(98,059)	(98,059)	4
1998 and Prior Local Government Claims Bill (Ch. 780/98)	0	(190,153)	(190,153)	4
Accrued Interest for Local Governments	0	(36,899,123)	(36,899,123)	5
Subtotal	\$ 11,000	\$ (1,000,215,578)	\$ (1,000,204,578)	5
School Mandated Cost Programs				
2003-04 Budget Act (Ch. 157/03)	\$ 2,000	\$ (131,023,863)	\$ (131,021,863)	5
2002-03 Budget Act (Ch. 379/02)	1,000	(176,799,401)	(176,798,401)	6
2001-02 Budget Act (Ch. 106/01)	20,313	(91,583,018)	(91,562,705)	7
2000-01 and Prior Budget Acts	0	(193,422,721)	(193,422,721)	8
2001-02 Education Claims Bill (Ch. 743/01)	0	(39,161,577)	(39,161,577)	8
2001-02 Extra Session (Ch. 1XXX/02)	0	0	0	8
2001-02 Budget Act (Ch. 106/01) Prop 98 Reappropriation	0	0	0	8
2000 Local Government Claims Bill (Ch. 177/00)	0	(128,060)	(128,060)	8
2000-01 Budget Act (Ch. 52/00) Prop 98 Reappropriation	0	0	0	8
2000 Education Trailer Bill (Ch. 71/00)	0	0	0	8
Accrued Interest for Schools	0	(50,057,021)	(50,057,021)	8
Subtotal	\$ 23,313	\$ (682,175,661)	\$ (682,152,348)	8
Community College Mandated Cost Programs				
2003-04 Budget Act (Ch. 157-03)	0	\$ (9,433,821)	(9,433,821)	9
2002-03 Budget Act (Ch. 379/02)	0	(15,229,178)	(15,229,178)	9
2001-02 Budget Act (Ch. 734/01)	0	(5,446,183)	(5,446,183)	9
2000-01 and Prior Budget Acts	0	(17,020,966)	(17,020,966)	9
Accrued Interest for Community Colleges	0	(2,005,535)	(2,005,535)	9
Subtotal	0	(49,135,683)	(49,135,683)	9
Total	\$ 34,313	\$ (1,731,526,922)	\$ (1,731,492,609)	9

It is my understanding that, upon notification from your office, the transfer of unencumbered funds can occur immediately. Please acknowledge your instructions below if you so approve. If there are any questions, please contact John Korach, Chief of the Division of Accounting and Reporting, at (916) 327-4144.

Sincerely,



VINCENT P. BROWN
Chief Operating Officer

VPB:JAK:glb.

Attachment

cc: Richard Chivaro, State Controller's Office
Marianne O'Malley, Office of Legislative Analyst
Paula Higashi, Commission on State Mandates

Upon receipt of this report, the Controller's Office is instructed to immediately transfer the funds indicated in this letter.

Department of Finance Authorization

Date

APPENDIX C

Letter From State Controller's Office
To Department of Finance,
Dated May 3, 2004, and
Schedule of Appropriation Transfer
and Deficiency

RECEIVED

MAY 04 2004

**COMMISSION ON
STATE MANDATES**



STEVE WESTLY
California State Controller

May 3, 2004

Mr. Stephen W. Kessler
Deputy Director, Operations
Department of Finance
State Capital, Room 1145
Sacramento, CA 95814

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Sincerely,



VINCENT P. BROWN
Chief Operating Officer

VPB:JAK:glb

Attachment

cc: Richard Chivaro, State Controller's Office
Marianne O'Malley, Office of Legislative Analyst
Paula Higashi, Commission on State Mandates

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Department of Finance Authorization

Date

APPENDIX D

Test Claims Pending Before The Commission on State Mandates

